

BOARD OF REGISTERED NURSING

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ADMINISTRATION OF INSULIN IN SCHOOLS BY UNLICENSED PERSONNEL
California Department of Education Case Settlement, K.C. et al. v. Jack O'Connell, et al.

The Board of Registered Nursing (BRN) is a state consumer protection agency and is statutorily authorized to interpret, implement, and enforce the Nursing Practice Act and its regulations. The Board's highest priority, as stated in statute¹ and reaffirmed in its mission statement, is protection of the public.

Background: Students with diabetes have encountered numerous problems in obtaining diabetes-related services, including insulin administration, to which they are legally entitled. The California Department of Education (CDE) issued a "Legal Advisory on the Rights of Students with Diabetes in California's K-12 Public Schools" (www.cde.ca.gov/ls/he/hn/legaladvisory.asp) pursuant to a settlement agreement in a lawsuit brought by parents of diabetic children and the American Diabetes Association. The advisory reminds school districts of their legal obligation to provide insulin administration and other services to students with diabetes-related disabilities and specifies who may administer insulin.

BRN Position: The BRN concurs with CDE that students must be provided all services to which they are legally entitled and reminds school nurses that, in their role as client advocate, they are required to work with appropriate school and districts administrators to ensure that such services are provided by legally authorized personnel.

The advisory identifies seven categories of persons authorized by California law to administer insulin in public and charter schools:

1. Self administration by the student, with authorization of the student's licensed health care provider and parent/guardian;
2. School nurse or school physician employed by the local educational agency (LEA);
3. Appropriately licensed school employee (i.e., a registered nurse or a licensed vocational nurse) who is supervised by a school physician or school nurse;
4. Contracted registered nurse or licensed vocational nurse from a private agency or registry, or by contract with a public health nurse employed by the local county health department;
5. Parent/guardian who so elects;
6. Parent/guardian designee, if parent/guardian so elects (volunteer);
7. Unlicensed voluntary school personnel with appropriate training, but only in an emergency.

The BRN agrees with CDE's opinion regarding individuals authorized by California law to administer insulin. However, the legal advisory asserts that there is a conflict between federal and state law and, to resolve the conflict, adds an eighth category of individuals authorized to administer insulin to eligible students under specified conditions:

"Voluntary school employee who is unlicensed but who has been adequately trained to administer insulin pursuant to the student's treating physician's orders as required by the Section 504 Plan or the individual education plan (IEP)." (Note: In the legal advisory, it is unclear that individuals in category 8 can only be used as a last resort. However, in both his press conference introducing the settlement agreement and at a meeting with the BRN and nursing organizations, Superintendent Jack O'Connell stated that school districts should exhaust all other legal options before training unlicensed personnel in category 8.)

¹ Business and Professions (B&P) Code § 2708.1

The BRN disagrees with CDE's position that federal law permits the administration of insulin by unlicensed personnel as specified in category eight. Administration of medications, including insulin, is a nursing function² that may not be performed by an unlicensed person unless expressly authorized by statute³. The American Nurses Association and American Nurses Association-California have filed a lawsuit challenging CDE's position.

School Nurse Practice: Until the issue is resolved, the school nurse is required to adhere to the Nursing Practice Act and should:

1. Work collaboratively with the local educational agency, school district, and school site administrator to ensure that students with diabetes receive all health-related services to which they are legally entitled, including insulin; and that services are provided by persons legally authorized to do so pursuant to California law. To comply with the law, it may be necessary to use contracted licensed staff; the expense of services being provided by a licensed person is not an acceptable rationale for training an unlicensed person.
2. Practice in accordance with the Standards of Competent Performance⁴, which require that the school nurse/contracted registered nurse conduct an assessment and formulate a plan of care for the client/student, safely and competently perform nursing care; and determine if nursing care can be assigned or delegated to subordinates. If subordinates are included in the plan of care, they must be legally authorized to perform the task, appropriately prepared, and capable of safely performing the task. The school nurse must effectively supervise the care being provided by subordinates.
3. Notify the CDE and the BRN if instructed to train an unlicensed person to administer insulin and an exhaustive effort has not been made to have an appropriately licensed person administer it.

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² Business and Professions Code, Section 2725(b)(2)

³ Business and Professions Code, Sections 2795, 2799

⁴ California Code of Regulations, Section 1443.5